



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 20, 1995

Ms. Tracy R. Briggs
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR95-073

Dear Ms. Briggs:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27810.

The City of Houston (the "city") received an open records request for "all documents relating to the Brio and/or Dixie Superfund site." You explain that the city has released to the requestor all information coming within the ambit of the request except for one paragraph of an interoffice memorandum dated November 19, 1993, which you contend comes under the protection of section 552.111 of the Government Code.

Section 552.111 of the Government Code excepts interagency and intraagency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process.¹ Open Records Decision No. 615 (1993) at 5. The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). In Open Records Decision No. 615, at 5, this office held that

¹Section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 615 (1993) at 5. If, however, the factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make separation of the factual data impractical, that information may be withheld. Open Records Decision No. 313 (1982).

to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters (Emphasis in original.)

After reviewing the information at issue, we agree that the paragraph you seek to withhold directly pertains to the city's decisionmaking process regarding a matter of public policy. Accordingly, the city may withhold this information pursuant to section 552.111.²

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/RWP/rho

Ref.: ID# 27810

Enclosures: Submitted documents

cc: Mr. Rick Anderson
Fisher, Gallagher & Lewis
1000 Louisiana, 70th Floor
Houston, Texas 77002
(w/o enclosures)

²We remind you, however, that because section 552.111 is one of the act's "permissive" exceptions, the city may release this information if it so chooses.